IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 9220 of 2005

Between:

1 Syed Jalal, S/o. Syed Abdul Hai,
R/o. H.No.16-3-935/A, Chanchalguda, Hyderabad.
2 Syed Ali Qasim, S/o. Syed Abdul Hai,
R/o. H.No.16-3-935/A, Chanchalguda.

..... PETITIONERS

AND

1 The Commissioner, Survey and Land Records, having office at Nampally, Hyderabad.
2 Deputy Director, Survey and Land Records, having office at Nampally, Hyderabad.
3 The District Collector, Hyderabad, having Office at Nampally, Hyderabad.
4 The Commissioner, Municipal Corporation of Hyderabad, having Office at Tank Bund Road, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to pass an order, direction or a writ particularly in the nature of writ of Mandamus directing the respondent No.4 to receive application, propose plans and construction fee from the petitioners to issue permit to enable them to raise construction at their house bearing M.C.No. 16-3-935/A, correspondent to old door No.as 424/6, admeasuring, 372 Sq. yards, situated at Chanchalguda, Hyderabad, ignoring the impugned memo bearing No. A1/TS/113/2005, dt. 25.2.2005, as the same is illegal in view of sale certificate issued by Managing Officer, Office of the Regional Settlement Commissioner, Bombay (Ministry of ?Rehabilitation) Consequently the respondent No.4 may be directed to immediately receive the application for construction along with copies of proposed plan and permit fees from the petitioners to issue construction permit to the petitioners in respect of house No. 16-3-935/A, correspondent to old door No.as 424/6, admeasuring, 372 sq. yards, situated at Chanchalguda, Hyderabad.

Counsel for the Petitioner:MR.MOHD.MOIN AHMED QUADRI
Counsel for the Respondent Nos.1 to 3: G.P. for Revenue.
Counsel for the Respondent No.4: MR.G.RAMA RAO

The Court, at the stage of admission, made the following :

ORDER:

The petitioners are aggrieved by the action of the respondents in refusing to receive the application of the petitioners for sanction of plan for making alterations and additions to the premises bearing Municipal Door No.16-3-935/A (old Door No.424/6) admeasuring 372 square yards, situated at Chanchalguda, Hyderabad.

The case of the petitioners is that they are the owners and possessors of the premises bearing Door No.2-3-792/4/1 situated at Chanchalguda, Hyderabad. According to the petitioners the site, in which the building in question was constructed, was originally purchased by one Sri.Syed Wali Mohammed in a public auction and constructed a house therein. Thereafter he has gifted the same in favour of the petitioners' father by name Syed Abdul Hai. In turn, the petitioners' father has gifted the building in question to the petitioners through a registered gift deed dated 28.10.2004 and ever since the petitioners have been in actual physical possession and enjoyment of the same. The petitioners state that they intended to carry out alterations and additions to the existing building and they have submitted an application to the second respondent-Deputy Director, Survey and Land Records, Nampally, Hyderabad requesting to grant permission for the same. However, the second respondent, by his Memo dated 25.02.2005 informed the petitioners that as per the TSLR, the premises in question falls in T.S.No.46, Block-1, Ward-177 of Malakpet and recorded as Government land and that the permission sought by the petitioners cannot be granted. Aggrieved by the said action of the respondents, the present writ petition is filed.

Heard both sides.

The contention of the petitioners is that even assuming that the premises in question has been recorded in the Town Survey Records as Government land, the

respondents are not justified in rejecting the application for grant of building permission solely on the basis of the said entry. The learned counsel for the petitioners has brought to my notice that an identical question has been considered by this Court in **Hyderabad Potteries Pvt. Ltd. Vs. Collector, Hyderabad District**, wherein it has been held that an entry in TSLR itself cannot be the conclusive proof of title, and the decision either to grant or refuse permission cannot be taken solely on the basis of an entry made in the TSLR. It is further held that it may be one of the factors that may have to be taken into consideration along with the other material available on record, but an entry made in TSLR *per se* could not create any doubt or cloud on the right, title and interest of a person in respect of any land.

A perusal of the impugned memo shows that permission sought by the petitioners for making alterations and additions to the existing building was refused, solely on the ground that the entry in the TSLR shows that the said land was recorded as Government land. Hence the ratio laid down in the decision cited supra, is directly attracted and on that ground alone the impugned memo is liable to be set aside**.**

In the circumstances, following the decision in ***Hyderabad Potteries Pvt. Ltd. Vs. Collector, Hyderabad District***
(1 supra), the writ petition is disposed of and the Memo in L.Dis.No.A1/TS/113/2005 dated 25.02.2005 refusing building permission to the petitioners is set aside and the 2nd respondent is directed to consider the matter afresh without having regard to the entry made in TSLR (Town Survey Land Record) and to pass appropriate orders on the application made by the petitioners seeking permission for making alterations and additions to the existing building, within two weeks from the date of receipt of this order. No costs.

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25.04.2005

Note : Furnish C.C. in two days.

(B/O)

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To

1 The Commissioner, Survey and Land Records,

Nampally, Hyderabad.
2 Deputy Director, Survey and Land Records,
Nampally, Hyderabad.
3 The District Collector, Hyderabad.
4 The Commissioner, Municipal Corporation of Hyderabad,
Tank Bund Road, Hyderabad.

5 Two C.Cs to the G.P., for Revenue, High Court buildings,
Hyderabad (OUT).

6 2 CD copies.